



OPEN MEETING AGENDA ITEM

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AZ CORP COMMISSION  
DOCKET CONTROL

January 14, 2008

**Via Hand Delivery**

Mike Gleason, Chairman

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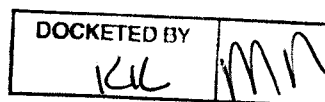
1200 W. Washington

Phoenix, Arizona 85007-2996

Arizona Corporation Commission

DOCKETED

JAN 14 2008



Re: In the Matter of Rulemaking to Amend Existing Rules and/or Establish New Rules Regarding the Commission's Requirements for Applications Requesting Approval to Obtain a New Certificate of Convenience and Necessity or Extend an Existing Certificate of Convenience and Necessity for Water and Sewer Utilities (Docket Nos. RW-00000B-07-0051 and RSW-00000A-07-0051)

Dear Chairman and Commissioners:

I am submitting comments in the above matters on behalf of Pulte Home Corporation ("Pulte"). As a land developer, Pulte often relies upon private water and sewer providers for service in its planned communities, which are sometimes not yet included within the providers' Certificates of Convenience and Necessity ("CC&Ns"). Pulte appreciates the Commission's efforts in these dockets to clarify by rule the information requested by the Commission in new CC&N applications and in applications to extend existing CC&Ns. Pulte is concerned, however, about the inclusion of certain items in the Staff's recommended rule changes.

Proposed new rule subsections R14-2-402(B)(2)(q) and (r), along with statements made in proceedings in this docket, implicate another purpose for the information requests in these two subsections. Subsection R14-2-402(B)(2)(q) would require "[a] description of how water will be provided for golf courses, ornamental lakes, other aesthetic water features, greenbelts, or parks within the area under application." Subsection R14-2-402(B)(2)(r) would require the submission of "[p]lans or description of water conservation measures." While it is acceptable for the Commission to request this information from a provider to more fully understand service plans, at least to the extent such plans are known by the provider at the time of the CC&N application, the Commission does not have jurisdiction to use this information to set requirements that are

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different from, or inconsistent with, the extensive legal requirements for water and land uses established in common law, by the Legislature, by local authorities, and by the Arizona Department of Water Resources. A landowner's use of water for golf courses, lakes, water features, greenbelts, or parks is already specifically addressed by local ordinances, the Arizona Department of Water Resources' statutes covering the filling and refilling of bodies of water, statutes authorizing the rules in the Third Management Plan, and various other statutes. *See, for example, Arizona Revised Statutes sections 45- 131 et seq., 45-141, 45-157, 45-311 et seq., 45-561 et seq.* Conservation requirements for water providers have recently been updated through a lengthy public process sponsored by the Arizona Department of Water Resources. We urge the Commission, if it includes these two new subsections in rule R14-2-402, to defer to these existing legal requirements in its decision making.

Pulte appreciates the opportunity to comment on the proposed rule changes.

Sincerely,



Michele Van Quathem

cc: Ernest Johnson, Director, Utilities Division  
Christopher Kempley, Chief Counsel, Legal Division  
Lynn A. Farmer, Chief Administrative Law Judge, Hearing Division  
Docket Service List  
Mike Brilz, Pulte Home Corporation  
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